

West Bengal Real Estate Regulatory Authority
Calcutta Greens Commercial Complex (1st Floor)
1050/2, Survey Park, Kolkata- 700 075

Complaint No.WBRERA/COM000053

Avijit Kumar Majumder and Soma Majumder Complainant

Vs.

M/S. Cancun Constructions / Calcun Constructions..... Respondent No. 1

Axis Bank Limited, Baguiati Branch..... Respondent No. 2

Sl. Number and date of order	Order and signature of the Officer	Note of action taken on order
06 Execution 16.05.2025	Today is the 6th day of Execution Hearing of the final order passed in this matter dated 20.07.2023. Advocate Mr. Proteek Debnath (Mobile – 9007862686 and email id- proteek.debnath@gmail.com) is present in the physical hearing and signed the Attendance Sheet. Advocate Rudranil Das (Mobile - 8622969291, email id - rudranil.das1997@grnail.com) is present in the online hearing on behalf of the Respondent filing hazira and Vakalatnama through email. Respondent no.2 i.e. Axis Bank was directed to make payment of the Principal and Interest amount to the Complainant by bank transfer from the two Accounts of the Respondent no.1, freezed by them to the extent of the total balance of the said two accounts permitting the same but the Respondent no.2 vide their letter no. AXIS/BAGUIATI/2024-25/106 dated 28.03.2025 submitted that balance as on that date towards the two freezed Accounts of the Respondent no.1 stood Nil for which they could not remit any amount as per order given by this Authority. Heard both the parties in detail. The Advocate of the Respondent stated that one petition has been	

preferred before Hon'ble High Court at Calcutta challenging the order of this Authority. But they could not submit any notice or stay order in support of his statement.

After hearing both the parties the Authority is hereby pleased to give the following directions:-

As the Respondent did not comply the order within the period of 45 days as directed in the final order of the Authority dated 20.07.2023, therefore, this Authority has no other option but to send this matter for execution as per Rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 and this Authority is hereby pleased to send this matter for execution to the Principal Civil Court, North 24 Parganas to execute it as a decree of the Civil Court in a suit before it and the provisions of Order XXI of the First Schedule to the court of civil procedure, 1908 shall as per as may be, applicable, as per the provisions of section 40 of the Real Estate (Regulation & Development) Act, 2016 read with rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021.

Rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 provides that,-

"26(1). Every order made by the Authority, Adjudicating Officer or Appellate Tribunal shall be enforced by it in the same manner as if it were a decree of a civil court in a suit before it and the provisions of Order XXI of the First Schedule to the Court of Civil Procedure, 1908 shall, as per as may be, applicable.

(2). Any such order shall be executed by the Principal Civil Court of the District having Jurisdiction to execute the same".

The Secretary, West Bengal Real Estate Regulatory Authority (WBREERA), is hereby directed to send certified copies of this order of this Authority and final order dated 20.07.2023 of this Authority, alongwith copy of the Complaint Petition no. WBREERA/COM 000053, to the Registrar of the District Court of North 24 Parganas, Barasat with the request to place the matter before the District Judge of North Parganas so that the order dated 20.07.2023 in WBREERA/COM 000053 passed by this Authority can be executed as per the

provisions contained in rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 and he is also requested to send the compliance report to this Authority as expeditiously as possible.

It should be mentioned here that in a similar case, the Hon'ble Supreme Court of India, in petition for Special Leave to Appeal (C) No.16908/22, has been pleased to order as follows:-

"We direct, that the authority shall proceed to execute the order which has been passed in favour of petition expeditiously, within a month from the date of receipt of a certified copy of this order by the executing forum".

As the present matter is similar to that of the matter heard by the Supreme court of India as mentioned above, therefore, necessary steps should be taken to execute this order within a month from the date of receipt of certified copies of the orders along with other papers and documents from this Authority.

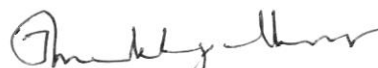
Let the copy of this order be served to both the parties by speed post and also by email immediately.



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority